

STATE OF VERMONT
PUBLIC SERVICE BOARD

Dig Safe Notice No. 615

In Re: Stan Combs Utility Excavating, Alleged Violation)
of May 26, 2009, as reported by Waitsfield-Fayston)
Telephone Company, Inc., d/b/a Waitsfield Telecom)

Order entered: 10/14/2009

ORDER RE: NOTICE OF PROBABLE VIOLATION

Background

1. Pursuant to 30 V.S.A. § 7001 et. seq., and Vermont Public Service Board Rule 3.800, the Vermont Department of Public Service ("Department") issued a Notice of Probable Violation of Underground Utility Damage Prevention System ("NOPV") to Stan Combs Utility Excavating ("Respondent").
2. Incident Date: May 26, 2009
3. Incident Location: On the S.E. corner of Postiche Land & Route 116 VT Power Pole 134, Hinesburg, VT
4. Name and Address of Company that Reported the Incident to the Department: Waitsfield-Fayston Telephone Company, Inc., d/b/a Waitsfield Telecom, P.O. Box 9, Waitsfield, VT 05673-0009
5. Date Incident Reported to Effected Utility: May 26, 2009
6. Date NOPV issued by Department: August 25, 2009 (#1636)
7. Department's Statement of Evidence Supporting the Alleged Violation: "The Department of Public Service investigated this incident and determined the following details. On 5/20/09, Green Mountain Power requested a Digsafe mark out to excavate a trench in order to transfer an underground power line in Hinesburg, VT. GMP had hired Mr. Stan Combs to excavate this project at this site. Stan Combs operated his machinery beyond the scope of the Digsafe ticket, more than 20 feet back from the road, at which location the machinery did damage to a Waitsfield Champlain Valley Telecom transmission wire. This caused a loss of service to 4 customers for 2 hours. The site was not marked out because the Digsafe ticket request called in did not include any area beyond 20 feet back from the road. Stan Combs notified WCVT of the damaged facility. The Department of

Public Service issued 0 Notices of Probable Violation (NOPV's) to Stan Combs Utility Excavating during the 12 months preceding this incident."

8. Statute, Rule, Regulation or Order Allegedly violated: 30 V.S.A. § 7004
9. The Department's Recommended Remedial Action(s) (Including Civil Penalties): Civil penalty in the amount of Three Hundred Dollars (\$300.00), and attendance at a Department-approved underground damage prevention seminar.
10. The Respondent has agreed to take the remedial action(s) recommended by the Department.¹

Conclusion and Order

Because the Respondent has not contested the NOPV, or the allegations therein, we conclude that the remedial action proposed in the NOPV is appropriate, and should be imposed.²

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

(1) Within thirty days of the date of this Order, Stan Combs Utility Excavating shall pay a civil penalty in the amount of Three Hundred Dollars (\$300.00) by submitting to the Public Service Board a check in that amount made payable to the State of Vermont, and sent to the Public Service Board at 112 State Street, Montpelier, VT 05620-2701; and

(2) Stan Combs Utility Excavating shall attend an Underground Damage Prevention Seminar at such time and place as determined by the Vermont Department of Public Service.

1. *See*, Respondent's filing of 9/1/09.

2. *See*, Public Service Board Rule 3.807(G).

Dated at Montpelier, Vermont, this 14th day of October, 2009.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: October 14, 2009

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.